

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
Southern Division**

**In re:**

**SHOOK & FLETCHER INSULATION CO.**

**Debtor-in-Possession.**

**Case No. 02-02771-BGC-11**

**Chapter 11**

**ENTERED**

**OCT 17 2002**

Clerk, U.S. Bankruptcy Court  
Northern District of Alabama

**ORDER AUTHORIZING AND APPROVING  
COMPROMISE AND SETTLEMENT WITH  
ST. PAUL FIRE & MARINE INSURANCE COMPANY**

The Court has considered the Motion for Approval of Agreement and Release Between Shook & Fletcher and St. Paul (the "Motion") filed by Shook & Fletcher Insulation Co., the debtor and debtor-in-possession herein ("Shook & Fletcher" or the "Debtor"), seeking approval of a compromise and agreement (appended hereto as "Exhibit 1" and referred to herein as the "Agreement"). Capitalized terms used in this Order and not otherwise defined shall have the respective defined meanings set forth in such Agreement or in the Amended Glossary dated August 30, 2002, and filed with the Court as an exhibit to the Amended Plan of Reorganization filed August 30, 2002 (Docket No. 263). The Agreement relates to certain claims made by Shook & Fletcher with respect to insurance coverage from St. Paul Fire & Marine Insurance Company ("St. Paul"), under certain insurance policies issued to Shook & Fletcher by St. Paul (the "St. Paul Insurance Policies") and/or a prior settlement agreement with respect thereto (the "Coverage-in-Place Agreement").

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Adequate notice of the Motion and of the hearing on the Motion was given by mailing a copy of the Motion and notice of the hearing on the Motion to: (i) counsel for the Asbestos Claimants Committee appointed in the Debtor's Chapter 11 Case (the "ACC") (ii) counsel for the Futures Representative; (iii) counsel for the Center for Claims Resolution; (iv) counsel for the Pre-Petition Trustee; (v) the attorneys representing Asbestos Claimants, who as of the date the Motion was filed, had filed with the Court either (1) a Proof of Claim or (2) a notice in accordance with the Court's Order Approving Notice Procedures for Included Asbestos Claimants, entered May 2, 2002; and (vi) all other Persons or Entities that, as of the date the Motion was filed, had filed a notice of appearance and demand for service of papers in the Debtor's Chapter 11 Case.

A hearing on the Motion was held on October 17, 2002 (the "Hearing") to consider the approval of the Agreement and all interested parties were given an opportunity to be heard and to present evidence. Based upon the record of the Hearing and of this Chapter 11 Case, and after due deliberation and sufficient cause appearing therefor:

The Court hereby FINDS that:

A. This Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This Motion presents a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A), (M) and (O).

B. The notice of the Motion and of the hearing on the Motion described above constitutes due, sufficient, and timely notice to all persons entitled thereto in accordance with the requirements of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure, and of

due process. No other or further notice of the Motion, of the hearing of the Motion or of the request for entry of this Order is necessary.

C. The Debtor and St. Paul negotiated at arm's length and in good faith to reach agreement on the matters resolved through the Agreement.

D. The compromise contained in the Agreement is a valid and proper exercise of the Debtor's business judgment and represents an exchange for reasonably equivalent value.

E. Any interest of the Debtor in or under the St. Paul Insurance Policies or the Coverage-in-Place Agreement, and any right of the Debtor to receive any portion of the Settlement Amount, constitute the exclusive property of the Debtor's bankruptcy estate (the "Estate").

F. The Agreement results in substantial benefits to the Debtor's Estate and its Creditors and Demand holders, including but not limited to: (i) settlement of complex potential litigation, and (ii) payment by St. Paul of the Settlement Amount for the benefit of the Estate and of present and future Asbestos Claimants.

G. Each of the following factors has been taken into account by the Parties in reaching the compromises embodied in the Agreement, and each factor supports approval of the Agreement:

- 1) the probability of success in any necessary litigation of the claims between the Debtor and St. Paul;
- 2) the difficulties, if any, to be encountered in the matter of collections of any claim by the Debtor against St. Paul;

- 3) the complexity of any necessary litigation between the Debtor and St. Paul, and the expense, inconvenience, and delay necessarily attending it;
- 4) the paramount interest of creditors and a proper deference to their reasonable views in the premises.

H. The terms of the compromise and exchanges of consideration set forth in the Agreement: (i) are in the best interests of the Debtor, its Estate, and its Creditors; and (ii) are entered into in good faith.

I. In entering into the Agreement, the Parties (i) have compromised their positions and (ii) have not admitted to or waived any legal, factual, or other positions with respect to the St. Paul Insurance Policies, the Coverage-in-Place Agreement, any disputes between the Parties, or any other matter.

NOW, THEREFORE, pursuant to Bankruptcy Code §§ 105(a), 363, 1107 and 1108 and Rule 9019(a) of the Federal Rules of Bankruptcy Procedure, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. The Motion shall be and hereby is GRANTED in all respects subject to the provisions of this order, and the Agreement is hereby APPROVED in all respects.

2. The Debtor is hereby authorized and empowered to take all necessary steps to carry out and implement the Agreement in accordance with its terms without further order of the Court, including, subject to the Agreement but otherwise without limitation, terminating its rights under, to, or in connection with the St. Paul Insurance Policies and the Coverage-in-Place Agreement and seeking in good faith for St. Paul the protection of an injunction under Bankruptcy Code § 105 and § 524(g)(2). The Agreement and this Order constitute valid and

binding obligations of the Debtor and of its Estate, which shall be enforceable in accordance with the terms thereof.

3. Subject to the terms of the Agreement, immediately upon payment in full by St. Paul of the Settlement Amount pursuant to the Agreement, and without the necessity of any further act by Shook & Fletcher, all of the rights, titles, interests, and benefits of Shook & Fletcher and of its Estate under, to, or in connection with any of the St. Paul Insurance Policies or the Coverage-in-Place Agreement are null and void.

4. Subject to the terms of the Agreement, the releases set forth in Section V of the Agreement shall become effective immediately upon payment in full by St. Paul of the Settlement Amount pursuant to the Agreement, and such releases shall be given effect by this Court to the full extent of this Court's power exercising its jurisdiction over the St. Paul Insurance Policies and the Coverage-in-Place Agreement to administer and dispose of property of the Estate. Subject to payment in full of the Settlement Amount pursuant to the terms of the Agreement, the St. Paul Releasees are released from any further liability or obligation to pay, with respect to or in connection with coverage provided or allegedly provided by St. Paul under or in connection with any of the St. Paul Insurance Policies or the Coverage-in-Place Agreement, any additional amount to any Person or Entity, including but not limited to Shook & Fletcher, any related Person or Entity, the Pre-Petition Trust or Pre-Petition Trustee, any trustee appointed in the Debtor's bankruptcy case now or in the future, any substantively consolidated estate in which the Debtor's Estate may be included, any Person or Entity that is or claims to be an insured under any such policy, any subrogee (or direct or indirect transferee of a subrogee), or any other Person or Entity otherwise asserting the rights of any insured under any St. Paul Insurance Policy or the Coverage-in-Place Agreement.

5. Within twenty (20) calendar days from the date that this Order becomes a Final Order or the Confirmation Order becomes a Final Order, whichever is later, St. Paul shall pay \$9,258,231.72, which equals fifty-percent (50%) of the Settlement Amount, to the Pre-Petition Trustee or as otherwise directed by the Bankruptcy Court, in accordance with the Agreement.

6. Within eighty (80) calendar days from the date that this Order becomes a Final Order or the Confirmation Order becomes a Final Order, whichever is later, St. Paul shall pay \$9,258,231.72, which equals the remaining fifty-percent (50%) of the Settlement Amount, to the Pre-Petition Trustee or as otherwise directed by the Bankruptcy Court, in accordance with the Agreement.

7. The Pre-Petition Trustee, or such other Person as receives payment pursuant to Paragraph 5 or 6 above, shall pay attorneys' fees from the applicable proceeds of the Agreement as directed by the Court.

8. The Court shall retain jurisdiction over any proceeding that involves the validity, enforceability, application, scope, construction, or modification of (i) the Agreement and any of its provisions, and (ii) this Approval Order.

Dated: October 17, 2002

  
United States Bankruptcy Judge